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3 UNITED STATES DISTRICT COURT

4 DISTRICT OF NEVADA

5 * * *

6 ALEXANDREW SCOT VAIL,

Case No. 3:21-cv-00410-MMD-CSD

7 Plaintiff,

ORDER

8 v.

9 DARIN BALAAM, *et al.*,

10 Defendants.

11 *Pro se* Plaintiff Alexandrew Scot Vail sued correctional officers and officials
12 involved in his pretrial detention at the Washoe County Detention Facility (“WCDF”) under
13 42 U.S.C. § 1983 for allegedly imposing unconstitutional conditions of confinement upon
14 him. (ECF No. 8.) Before the Court is the Report and Recommendation (“R&R”) of United
15 States Magistrate Judge Craig S. Denney (ECF No. 53), recommending that the Court
16 grant in part, and deny in part, Defendants’ motion for summary judgment (ECF No. 44
17 (“Motion”)). Objections to the R&R were due October 24, 2023. (*See id.*) To date, no
18 objections to the R&R have been filed. Because the Court agrees with Judge Denney’s
19 analysis in the R&R, and as further explained below, the Court adopts the R&R in full and
20 will grant in part, and deny in part, the Motion—and refer this case for a settlement
21 conference.

22 Because there was no objection, the Court need not conduct *de novo* review, and
23 is satisfied that Judge Denney did not clearly err. *See United States v. Reyna-Tapia*, 328
24 F.3d 1114, 1116 (9th Cir. 2003) (“*De novo* review of the magistrate judges’ findings and
25 recommendations is required if, but *only* if, one or both parties file objections to the
26 findings and recommendations.”) (emphasis in original). In the R&R, Judge Denney first
27 recommends the Court reject Plaintiff’s argument that Defendants are barred from
28 asserting that the conditions he faced at WCDF did not violate the Constitution because

1 Defendants' answer included a denial of Plaintiff's allegations. (ECF No. 53 at 4-5.) Judge
2 Denney then recommends that Defendants' Motion be granted as to the constant
3 illumination portion of Plaintiff's Fourteenth Amendment claim primarily because Plaintiff
4 did not sufficiently dispute it, but otherwise denied as to the other elements of Plaintiff's
5 Fourteenth Amendment claim. (*Id.* at 5-9.) Judge Denney next recommends that
6 Defendants' Motion be granted as to Plaintiff's equal protection claim, noting that even
7 Plaintiff stated in his response that he'll 'get out of Defendants' way' on this claim. (*Id.* at
8 10-12.) Judge Denney finally recommends the Court reject Defendants' qualified
9 immunity argument as to the elements of Plaintiff's Fourteenth Amendment claim that
10 Judge Denney recommends proceed. (*Id.* at 12-13.) Judge Denney did not clearly err in
11 the R&R.

12 It is therefore ordered that Judge Denney's Report and Recommendation (ECF
13 No. 53) is accepted and adopted in full.

14 It is further ordered that Defendants' Motion (ECF No. 44) is granted in part, and
15 denied in part.

16 It is further ordered that Defendants' Motion is granted insofar as Plaintiff claims
17 that the constant illumination in his cell violated his rights under the Fourteenth
18 Amendment, but otherwise denied as to Plaintiff's Fourteenth Amendment conditions of
19 confinement claim.

20 It is further ordered that Defendant's Motion is granted as to Plaintiff's equal
21 protection claim against Defendant Balaam.

22 It is further ordered that the Court denies Plaintiff's request that Defendants be
23 procedurally barred from asserting the argument that the conditions Plaintiff faced did not
24 violate the Constitution.

25 It is further ordered that the Court finds it appropriate to refer this case to a
26 settlement conference before United States Magistrate Craig S. Denney under LR 16-5.

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1 It is further ordered that, if this case does not settle at the settlement conference,
2 the parties must submit a proposed joint pretrial order within 30 days of the settlement
3 conference.

4 DATED THIS 31st Day of October 2023.

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8 MIRANDA M. DU
9 CHIEF UNITED STATES DISTRICT JUDGE
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